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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,650	02/22/2000	Frank S. Yuan	248/006	2218
34026	7590	11/04/2003	EXAMINER	
JONES DAY			SNAPP, SANDRA S	
555 WEST FIFTH STREET, SUITE 4600			ART UNIT	
LOS ANGELES, CA 90013-1025			PAPER NUMBER	

3624

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/511,650

Applicant(s)

YUAN, FRANK S.

Examiner

Sandra Snapp

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-13, 15-17, 19-24 and 26-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-6, 8-13, 15-17, 19-24 and 26-39 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claims 1-6, 8-13, 15-17, 19-24 and 26-39 are currently pending in the application.

Claims 1, 3-5, 19, 21-23, and 32 were amended in the latest amendment filed 8-14-03. Claims 7, 14, 18 and 25 have been canceled in a previous amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-13, 15-17, 19-24 and 26-30, 32, and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Wireless Commerce Ltd international application (WO 00/22907 – hereinafter “WCL”) in view of the Applicant’s disclosure.

The WCL reference discloses a method for an auction providing at least one seller that posts goods or services, providing one or more buyers to bid on the goods, providing an auction manager to conduct the auction, designating a winning buyer, and providing a guarantee via a factoring agreement, wherein the factoring agreement obligates the financial institution to pay at least a portion of the payment due from the winning buyer to the seller (p. 1, lines 20-37 and p. 8, lines 16-26)(claims 1, 3, 4, 5, 12, 19, 21, 22, 23, 32 & 35);

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the financial institution is a factoring entity, a bank or a credit assurance company (p. 3, lines 1-6)(claims 2 & 20);

the guarantee is a single transaction factoring agreement, a no-loan factoring agreement or a loan factoring agreement (p. 3, lines 1-6, use of a credit or debit account)(claim 36);

the goods are posted and the auction is conducted online at a web site (p. 3, lines 11-19)(claims 6, 13, 24, 37, 38 & 39);

the seller applies online for the guarantee prior to posting the goods or services (p. 4, lines 6-14)(claims 8, 15 & 26);

the buyers apply online for a credit check prior to bidding on the goods or services (p. 4, lines 6-14)(claims 9, 16 & 27);

a portion of the sales price is paid to the auction manager or financial institution (p. 1, lines 33-37)(claims 10, 17 & 28);

the financial institution receives commissions (present application, background of the invention section, p. 5, lines 10-16)(claims 11 & 29);

the time period is 30 days (the Examiner takes official notice that a specific time period can be set in an auction)(claim 30).

The WCL reference does not specifically disclose an auction wherein the factoring agreement is between the seller and a financial institution, however such is taught by the Applicant as disclosed in the *Background Of The Invention* section of the specification of the present invention and is admitted prior art. The specification states on page 5, lines 4-11,

“Financial institutions have been used in connection with the sale of goods and services for some time. For example, if the seller meets certain qualifications, *the seller may enter into an agreement with a financial institution whereby the financial institution will guarantee the buyer's credit worthiness or payment to the seller for goods sold.* To

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this end, the financial institution may advance some or all of the payment to the seller and then go about collecting the account receivable from the buyer. In return, the financial institution typically receives a commission or some other fee from the seller.” [emphasis added].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the WCL reference to include the teaching from the Applicant’s background section so as to ensure payment on the sale and avoid difficulty in collecting payment from the buyer.

Claims 31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over WCL as applied to claim 1 above, and further in view of the Aggarwal et al. patent (US 6,151,589).

The WCL reference discloses all the elements of the claimed invention, as stated above, except for having multiple auctions running simultaneously (claims 31, 33 & 34). The Aggarwal et al. patent discloses a method for performing multiple auctions online simultaneously (col. 2, lines 41-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the WCL system to include the multiple auctions as taught by the Aggarwal reference so as to maximize the amount of goods and/or services to be auctioned in the least amount of time as well as to provide a forum for selling large scale commodities.

Response to Arguments

The primary argument set forth by the Applicant to distinguish the Wireless Commerce reference from the present invention is that Wireless does not establish *a guarantee*

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via a factoring agreement between the seller and a financial institution, wherein the factoring agreement obligates the financial institution to pay at least a portion of the payment due from the winning buyer to the seller. However, the Applicant admits such agreements are known in the art, as stated above, and therefore does not raise the present application to the level of being patentable. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Snapp whose telephone number is 703-305-6940. The examiner can normally be reached on Mon.-Thurs..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


SS



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